

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
BCF LLP
1100, Rene-Levesque Blvd. West
25th Floor
MONTREAL, Quebec
Canada, H3B 5C9

PCT

NOTIFICATION CONCERNING INFORMAL
COMMUNICATION WITH THE APPLICANT

(PCT Rule 66.6)

BCF		Due <u>06/15/2006</u> m/m. jd aly	Date of mailing (day/month/year) 15 May 2006 (15-05-2006)	
Inscription	Validation	REPLY DUE	within one months/days from a the above date of mailing	
Applicant's or agent's file reference 08831-012	LR	in		
International application No. PCT/CA2005/000217		International filing date (day/month/year) 18 February 2005 (18-02-2005)		

Applicant
MAQUET CRITICAL CARE AB ET AL

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1. An informal communication took place on
and

17 MAI 2006

, between the undersigned

the applicant

the agent

BCF S.E.N.C.R.L. / LLP

and this International Preliminary Examining Authority transmits herewith a copy of the note on that communication
(Form PCT/IPEA/428).

2. Further examination of the international application has revealed that the application fails to meet the requirements of the PCT and the Regulations as explained in the attached note.
3. The applicant is hereby invited, within the time limit indicated above, to submit a written reply accompanied by amendments.
4. If no reply is submitted, the international preliminary examination report will reflect only the opinion expressed by this Authority.

Name and mailing address of the IPEA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9
Facsimile No.: 001(819)953-2476

Authorized officer

Carl Ebsen (819) 997-2313

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PATENT COOPERATION TREATY

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NOTE ON INFORMAL COMMUNICATION WITH THE APPLICANT

(PCT Rule 66.6)

International application No. PCT/CA2005/000217	Applicant's or agent's file reference 08831-012	Date of informal communication (day/month/year) 25 April 2006 (25-04-2006)
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Applicant
MAQUET CRITICAL CARE AB ET AL

<u>Communication</u>	<u>Participants</u>	<input type="checkbox"/> identity checked	<input type="checkbox"/> authorization checked	<input type="checkbox"/> personally known
<input type="checkbox"/> by telephone	<input type="checkbox"/> Applicant:			
<input type="checkbox"/> personal	<input type="checkbox"/> Agent:			
	<input type="checkbox"/> Examiner(s):			

Summary of communication:

In response to the agents letter dated Dec. 19, 2005, the agent refers to page 26 of D2 saying that "...obviously, this threshold is not related to respiration muscle fatigue in any manner." On page 26 of D2, paragraph 1, it states "...other muscles associated with inspiration above a desired threshold level..." which can be related to respiration muscle fatigue. Document D2 deals with controlling air pressure into the lungs which is directly related to respiration muscle fatigue (description, pg. 2, line 21). Page 2, line 26 describes the "...neutral deactivation of inspiratory muscles". On page 25, line 25 "...the measurement of other respiratory-related EMG can be obtained with a suitable device placed in the vicinity of the respiratory-related muscle, inserted or implanted on the surface of or into the muscle of interest". By controlling airway inspiratory flow and/or pressure the risk of respiratory muscle fatigue is reduced. As seen on page 31 of D2 "The myoelectrical activity of these muscles can eventually be detected by means of electrodes directly implanted in the muscle." On page 3, paragraph 12 of D1 it states that "...it should be kept in mind that the concept of the present invention can be used with any respiratory muscle signal."

By viewing documents D1 and D2 it can be seen that muscle fatigue can be reduced, and that said fatigue can be controlled by threshold parameters. Reducing the risk of respiratory muscle fatigue is not considered to be an inventive step.

If the agent has any further questions please contact the examiner by telephone at the number below.

An extension of time limit is granted (Form PCT/IPEA/427).
 A copy of this note is being sent to the applicant with Form PCT/IPEA/429.

Applicant/Agent BCF LLP 1100, Rene-Levesque Blvd. West 25th Floor MONTREAL, Quebec Canada, H3B 5C9	Authorized officer of IPEA/CA Carl Ebsen (819) 997-2313
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